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To: Microsoft ATR
Date: 1/25/02 6:42pm
Subject: Microsoft Settlement

I am a computer programmer and computer systems administrator. I have been doing this work for nearly twenty years, and I remember the first Microsoft anti-trust case and the earlier IBM anti-trust case.

Having established my old-codgerdom, please allow me to comment on the "Proposed Final Judgement in United States v. Microsoft".

The proposed remedy has many flaws in the details, but more importantly, some basic shortcomings:

1) Inadequate allowance is made for the fact that Microsoft is a serial, unrepentant lawbreaker. Far too much is given over to Microsoft's discretion. For instance, they may withhold critical interoperability information if that information would "compromise the security of a particular installation or group of installations of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems". (III.J.1)

Microsoft is not only technically able to engineer gratuitous dependencies on such exempted APIs, but apparently is the party that decides whether such a dependency exists in the first place.

Microsoft should never be in the position of interpreting any part of the final judgement. A special master or other external agency should make any interpretation.

Microsoft has earned a presumption of bad faith.

2) No explicit provision is made for competitors to Microsoft that are not, strictly speaking, businesses. The Wine project (<http://www.winehq.com>) and the Samba project (<http://www.samba.org/samba/samba.html>) are volunteer efforts that produce software that serves some people, for some purposes as an alternative to Microsoft. The volunteers on these projects do this by reading the documented API, performing experiments and determining the real API. Then they implement as much of that API as they can.

It is true that such an organization often has some corporate assistance, but the project itself is not structured as a business and so would fail to "meet[s] reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business". (III.J.2.c)

3) No provision is made for lowering the user's barrier to migration. Users may well have significant time and effort invested in documents in proprietary Microsoft formats. Microsoft should be forced to open up these formats, so that other vendors may produce fully compatible (at the file level) products, allowing users to move their own work product to other platforms, should they so desire.

--- Sincerely,

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